

AMENDED IN SENATE AUGUST 24, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 394

Introduced by Assembly Member Fuentes Torrico
(Coauthors: Senators Corbett and Wright)

February 23, 2009

~~An act to add Section 12019.5 to the Government Code, relating to the census. An act to add Section 6356.7 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 394, as amended, ~~Fuentes Torrico. Census. Sales and use taxes: exemption: automobile manufacturing.~~

(1) The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state.

This bill would exempt from those taxes the gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property, as specified, purchased for use by an automobile manufacturer located in Fremont, California or purchased for use by a contractor who will use the property in performing a construction contract for the automobile manufacturer, as specified.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity with the Sales and Use Tax Law, and the Transactions and Use Tax

Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these laws. Section 2230 of the Revenue and Taxation Code provides that the state will reimburse counties and cities for revenue losses caused by the enactment of sales and use tax exemptions.

This bill would provide that, notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for sales and use tax revenues lost by them pursuant to this bill.

(2) This bill would state the findings and declarations of the Legislature concerning the need for special legislation.

~~Existing law specifies various duties of government agencies in connection with conducting the decennial census and maintaining population data.~~

~~This bill would require the Governor to appoint a task force to make recommendations on how to maximize the number of Californians counted in the 2010 census and to implement a census outreach program.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 6356.7 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 6356.7. (a) There are exempted from the taxes imposed by this
- 4 part the gross receipts from the sale of, and the storage, use, or
- 5 other consumption in this state of, both of the following:
- 6 (1) Tangible personal property purchased for use by an
- 7 automobile manufacturer located in Fremont, California, to be
- 8 used primarily in any stage of the manufacturing, processing,
- 9 refining, fabricating, or assembling of automobiles, beginning at
- 10 the point any raw materials are received by the automobile
- 11 manufacturer located in Fremont, California, and introduced into
- 12 the process and ending at the point at which the manufacturing,
- 13 processing, refining, fabricating, or assembling has altered
- 14 property to its completed form.
- 15 (2) Tangible personal property purchased for use by a
- 16 contractor purchasing that property for use in the performance of
- 17 a construction contract to construct a special purpose building or

1 foundation, including a research or storage facility used during
2 the manufacturing process, for an automobile manufacturer located
3 in Fremont, California who will use the special purpose building
4 or foundation as an integral part of the manufacturing, processing,
5 refining, or fabricating process. A building used solely for
6 warehousing purposes after completion of the manufacturing
7 process is not a special purpose building.

8 (b) For purposes of this section:

9 (1) "Automobile manufacturer" means a person who is
10 primarily engaged in that line of business described in Code
11 3361111 of the North American Industrial Classification System
12 (NAICS) published by the United States Office of Management
13 and Budget (OMB), 2002 edition.

14 (2) "Tangible personal property" includes, but is not limited
15 to, all of the following:

16 (A) Machinery and equipment, including component parts and
17 contrivances such as belts, shafts, moving parts, and operating
18 structures.

19 (B) All equipment or devices used or required to operate,
20 control, regulate, or maintain the machinery, including, without
21 limitation, computers, data processing equipment, and computer
22 software, together with all repair and replacement parts with a
23 useful life of one or more years therefor, whether purchased
24 separately or in conjunction with a complete machine and
25 regardless of whether the machine or component parts are
26 assembled by the taxpayer or another party.

27 (c) No exemption shall be allowed under this section unless the
28 purchaser furnishes the retailer with an exemption certificate,
29 completed in accordance with any instructions or regulations as
30 the board may prescribe.

31 (d) Notwithstanding subdivision (a), the exemption provided by
32 this section shall not apply to any sale or use of property that,
33 within one year from the date of purchase, is either removed from
34 California, converted from an exempt use under subdivision (a)
35 to some other use not qualifying for the exemption, or used in a
36 manner not qualifying for the exemption.

37 (e) If a purchaser certifies in writing to the seller that the
38 property purchased without payment of the tax will be used in a
39 manner entitling the seller to regard the gross receipts from the
40 sale as exempt from the sales tax, and within one year from the

1 *date of purchase, the purchaser (1) removes that property outside*
2 *California, (2) converts that property for use in a manner not*
3 *qualifying for the exemption, or (3) uses that property in a manner*
4 *not qualifying for the exemption, the purchaser shall be liable for*
5 *payment of sales tax, with applicable interest, as if the purchaser*
6 *were a retailer making a retail sale of the property at the time the*
7 *property is so removed, converted, or used, and the cost of the*
8 *property to the purchaser shall be deemed the gross receipts from*
9 *that retail sale.*

10 *SEC. 2. The Legislature finds and declares that a special law*
11 *is necessary and that a general law cannot be made applicable*
12 *within the meaning of Section 16 of Article IV of the California*
13 *Constitution because of the unique circumstances and economic*
14 *importance of automobile manufacturing in Fremont, California.*

15 *SEC. 3. Notwithstanding Section 2230 of the Revenue and*
16 *Taxation Code, no appropriation is made by this act and the state*
17 *shall not reimburse any local agency for any sales and use tax*
18 *revenues lost by it under this act.*

19 ~~SECTION 1. Section 12019.5 is added to the Government~~
20 ~~Code, to read:~~

21 ~~12019.5. The Governor shall appoint a task force to make~~
22 ~~recommendations on how to maximize the number of Californians~~
23 ~~counted in the 2010 census and to implement a census outreach~~
24 ~~program, taking into account the successes and problems with the~~
25 ~~2000 California Complete Count Campaign.~~